

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case: 06-20234-04
Hon. JOHN CORBETT O'MEARA

DURELL MATTHEWS,

Defendant.

**ORDER AMENDING THE COURT'S APRIL 09, 2008, ORDER FOR COMPETENCY
EVALUATION**

1. Defendant having filed a second emergency motion for extension to delay trial pending the completion of a competency hearing and evaluation, and the accompanying evidence and confirming reports directly from prison officials, there is reasonable cause to believe that the Defendant may be suffering from a mental disease or defect rendering him mentally incompetent to the extent he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense. Accordingly,

2. The Court shall grant a motion for a competency hearing where there is "reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense." 18 U.S.C. § 4241(a).

3. Likewise, such reasonable cause is present in the case of Durell Matthews is not clearly erroneous. The record supports the existence of the factors relied on. Considering Defendant's behavior in custody, this Court finds that there is reasonable cause to believe that the Defendant *may* presently be suffering from a mental disease or defect rendering him mentally incompetent, particularly to the extent that he is unable to assist properly in his defense.

4. Having found that the Defendant's continued request for a Competency Evaluation to be conducted is *not* clearly erroneous or contrary to law, said request is hereby **GRANTED IN PART**.

IT IS HEREBY ORDERED that Durell Matthews shall continue to be committed to the custody of the United States Attorney General, United States Bureau of Prison, for the purpose of conducting a psychological examination of the Defendant **at the soonest available time** by a **licensed psychologist** pursuant to 18 U.S.C. § 4247(b).

IT IS FURTHER ORDERED that Pursuant to 18 U.S.C. § 4241(b) and Fed. R. Cr. P. 12.2(c)(1)(A), Durell Matthews shall submit to a competency examination prior to a hearing to determine the Defendant's mental competency.

IT IS FURTHER ORDERED that a neurological and psychological examination of the Defendant be conducted for the purposes of determining: (1) his competency to waive his right to counsel; (2) his competency to act as her own attorney; (3) his competency to properly assist in his own defense; and (4) his competency to stand trial;

IT IS FURTHER ORDERED that, pursuant to 18 U.S.C. § 4247(b), the Defendant is to be continued to be committed to the custody of the United States Attorney General, United States Bureau of Prisons, for a additional period, but not to exceed thirty (30) days for placement in a suitable federal facility for the purposes of a pre-trial psychological evaluation. The examiner may request a reasonable extension, not to exceed thirty (30) days, upon a showing that additional time is necessary to observe and evaluate the Defendant;

IT IS FURTHER ORDERED that the Defendant shall be treated at a facility designated by the United States Bureau of Prison to address any medical issues that exist during his competency examination and that such medical issues shall be stabilized immediately;

IT IS FURTHER ORDERED that, pursuant to 18 U.S.C. § 4247(c), a psychological report be filed with the Court and copies of this report are to be provided to counsel of record for the Defendant and United States;

IT IS FURTHER ORDERED that the Department of Justice shall pay for this pre-trial examination;

IT IS FURTHER ORDERED that the trial as to Durel Matthews, shall be stayed pending the completion of the examination, issuance of the report, and hearing relative to his competency. Following the issuance of a report, a competency hearing will be scheduled by the Court.

IT IS FURTHER ORDERED that upon completion of the report, the Defendant shall be transported back to the custody of the US Marshall forthwith for a competency hearing.

Date: June 12, 2008

s/John Corbett O'Meara
United States District Judge

I hereby certify that a copy of this order was served upon counsel of record via the court's ECF system on June 12, 2008.

s/William Barkholz
Case Manager